

**AGENDA
TOWN OF EDGEWOOD
PLANNING & ZONING COMMISSION MEETING
JUNE 20, 2016 AT 6:00 PM
EDGEWOOD COMMUNITY CENTER
27 E. FRONTAGE ROAD, EDGEWOOD, NM 87015**

The Town of Edgewood Planning & Zoning Commission is pleased to have residents of the community take time to attend commission meetings. Attendance and participation is encouraged. Individuals wishing to be heard during public hearing proceedings are encouraged to be prepared. Public comments may not be disruptive or harassing, and all persons are expected to maintain respect and decorum. Accordingly, rude, slanderous, or abusive comments and/or boisterous behavior will not be permitted. Written comments are welcome and should be given to the town administrator prior to the start of the meeting.

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. APPROVAL OF MINUTES:**
 - A. Draft Planning & Zoning Commission Meeting Minutes of June 6, 2016
- 4. PUBLIC COMMENTS**
- 5. REQUEST FOR CHANGE IN ZONING FROM R-1 RESIDENTIAL TO C2-COMMERCIAL**
for property located at:
 - A. Tract 5-D, Lands of Hill, Section 9, T10N, R7E, N.M.P.M. Santa Fe County, Town of Edgewood, NM 87015
- 6. FINDINGS OF FACT AND CONCLUSION OF LAW & RECOMMENDED ORDER**
 - A. SU- Special Use To R2- Conventional Residential property located at:
560 Dinkle Road, Tract B, as shown on "Land Division of a portion of the Lands of Donald E & Mary E Huston", being located in portions of Sections 14, 23, & 24, T10N, R7E, N.M.P.M., Santa Fe County, Town of Edgewood, NM 87015
- 7. RESOLUTION 2016-05 "RESOLUTION FOR PLANNING & ZONING COMMISSION"**
- 8. AMENDMENTS TO THE ZONING ORDINANCE – DISTRICT STANDARDS**
- 9. MATTERS FROM THE CHAIR AND COMMISSION MEMBERS**
- 10. MATTERS FROM STAFF**
- 11. CALENDAR UPDATE AND FUTURE AGENDA ITEMS.**
 - A. Next Commission Meeting 7/05/16
 1. Minor Subdivision – Woodline Road
- 12. ADJOURN.**

A copy of the agenda may be obtained at the Town Office, 1911 Historic Route 66 during regular business hours of 8:00 am - 5:00 pm. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Town Clerk at 505-286-4518 at least one week prior to the meeting or as soon as possible.

**DRAFT MINUTES
TOWN OF EDGEWOOD
PLANNING & ZONING COMMISSION MEETING
JUNE 6, 2016 AT 6:00 PM
EDGEWOOD COMMUNITY CENTER
27 E. FRONTAGE ROAD, EDGEWOOD, NM 87015**

1. CALL TO ORDER & ROLL CALL

Vice Chairperson Huppertz called the meeting to order at 6:08 pm.
Commissioners present were: Larry Sullivan, Garry Bryant, & Vice Chair Cheryl Huppertz. Also present were: Juan Torres, Town Clerk/Treasurer, & Bonnie Pettee, Planning & Zoning. Chairman Dan Thompson was not present.

2. APPROVAL OF AGENDA

MOTION: Commissioner Sullivan made a motion to approve the Agenda, omitting Item #5 due to the absence of Chairman Thompson.

Chairman Thompson arrived at this time.
Commissioner Sullivan withdrew his motion.
Staff suggested that the agenda be amended to add the item "Public Comments" between Items 6 & 7.

MOTION: Commissioner Sullivan made a motion to approve the agenda, adding Public Comments to the agenda.
Commissioner Huppertz seconded the motion.

VOTE: All Commissioners present voted aye. Motion carried.

3. ADJOURN TO SITE VISIT – BARTON COURT

MOTION: Commissioner Bryant made a motion to adjourn the meeting to view Barton Court. Commissioner Sullivan seconded the motion.

Chairman Thompson adjourned the meeting for the site visit to Barton Court.

4. RECONVENE

MOTION: Commissioner Huppertz made a motion to re-convene the meeting.
Commissioner Sullivan seconded the motion.

VOTE: All Commissioners present voted aye. Motion carried.

5. APPROVAL OF MINUTES:

A. Draft Planning & Zoning Commission Meeting Minutes of May 17, 2016

MOTION: Commissioner Huppertz made a motion to approve the minutes of May 17, 2016. Commissioner Sullivan seconded the motion with discussion.

Commissioner Sullivan asked for clarification in the minutes; Item 3.A. which reads "Commissioner Sullivan was not present and, therefore, did not vote." He would like that sentence restated as "Commissioner Sullivan was not present for the vote."

Commissioner Sullivan made a motion to amend the minutes with suggested change. Commissioner Huppertz seconded the motion.

VOTE: All Commissioners present voted aye to approve the minutes of May 17, 2016 with changes. Motion carried.

6. DISCUSSION & RECOMMENDATION ON BARTON COURT – ROAD DEDICATION

Ms. Pettee noted she had given each Commissioner the report for Barton Court from the Fire Department just prior to tonight's meeting. She hadn't received it until after the packets were distributed.

Mr. Torres reviewed the Fire Department report which stated the road does not meet the 1997 Uniform Fire Codes or the 2003 International Code Standards. He further explained the gate and driveways should be 14 feet wide, the driving surface needed to support the weight of emergency vehicles, and the turnaround at the end of the road needs to meet the requirements of the Santa Fe County Fire Department.

Mr. Norton Henninger, Road Superintendent for Edgewood, addressed the Commission. Based on his inspection of Barton Road, he stated the road has no base course, curbs, or culverts. It does appear to be 20' wide, up to the turnaround.

Commissioner Huppertz inquired about private roads and the process for them.

Mr. Henninger stated it is against State law to do improvements on private roads, due to the anti-donation clause.

Commissioner Sullivan asked if there was a Road Improvement Plan in place.

Mr. Torres replied not as yet. There is an older one that was generated out of a previous Commission, which needs to be updated. There are two streets left on it. They will be done as funding becomes available.

MOTION: Commissioner Sullivan made a motion to advise the owners along Barton Court that we cannot approve the dedication at this time, due to problems with the road. It is substandard and based on the Fire Department report, not suitable for access by the Fire Department.

Commissioner Huppertz asked if they could approve it with conditions that they bring the road up to District standards.

Mr. Torres replied that they would need to do that first, then bring it back to the Town.

Commissioner Huppertz seconded the motion.

VOTE: All Commissioners present voted aye. Motion carried.

7. PUBLIC COMMENTS

Roger Holden spoke regarding the Parks & Recreation projects he is currently working on. He stated that part of the projects involve the Commission. He briefly spoke about twelve projects that are ongoing. Some of which are: The Edgewood Community Park, the Equestrian Rest Stop, BMX Park, various BLM properties and how the proposed trail system will connect them all. He is also working on resurrecting Ordinance 2012-01, Planning Roadway System Priorities for Improvement. He will work with the trail portion and the Commission will handle the roads. He added, he would like to discuss this with the Commissioners in the near future.

8. REQUEST FOR CHANGE IN ZONING FROM SU-SPECIAL USE TO R2-CONVENTIONAL RESIDENTIAL property located at:

- A. 506 Dinkle Road, Tract B, as shown on "Land Division of a portion of the Lands of Donald E & Mary E Huston", being located in portions of Sections 14, 23, & 24, T10N, R7E, N.M.P.M., Santa Fe County, Town of Edgewood, NM 87015.

Bonnie Pettee presented the staff report, stating the applicant submitted the application for zone change from SU-Special Use to R2-Conventional Residential for 7.5 acres. The subject property was a portion of a larger parcel that was previously granted a Special Use for construction and gravel production. The business is no longer in production, so the Special Use is no longer needed. The applicants purchased the home and barn that is situated on 7.5 acres and are requesting the zone change to allow them to use the home for short term rentals. R2-Conventional Residential zoning allows "boarding, rooming & lodging houses" with a Conditional Use permit. Provisions for Off Street Parking have been provided for.

Ms. Pettee stated the request to change zoning to R2-Conventional Residential is consistent with the surrounding properties. Staff recommends approval of the request.

She added, upon approval, the applicants need to apply for the Conditional Use Permit before any rentals may take place.

Commissioner Sullivan stated he did not see 10 parking spaces on the site plan. He asked how you know if it's safe or what the occupancy capacity is, or the size of the home is. He stated the report was short of information. He asked if mining was still going on.

Mr. Larry Miller and Dorothy Miller, applicants, approached the podium. Mr. Miller replied to the questions at hand, the information Commissioner Sullivan was asking about was stated in the applicants' narrative.

Mrs. Miller added that mining has not been done since her father passed away in 1995. She added the house is 2800 square feet and they were considering 2 possible room rentals. Mr. Miller pointed out on the map projected, the areas to be used for parking. He added they are working towards the rentals first and are unsure what they will do with the barn at this point.

MOTION: Commissioner Huppertz made a motion to approve the request for zone change from SU Special Use to R2 Conventional Residential for property located at 506 Dinkle Road, Tract B, as shown on "Land Division of a portion of the Lands of Donald E & Mary E Huston", being located in portions of Sections 14, 23, & 24, T10N, R7E, N.M.P.M., Santa Fe County, Town of Edgewood, NM 87015. Commissioner Bryant seconded the motion.

VOTE: Chairman Thompson asked all Commissioners in favor to say "aye". Commissioner Sullivan amended the motion to add:

1. We are moving from a Special Use zoning to a more restrictive one, R-2 Conventional Residential at the owner's request.
2. The Conditional Use Permit is not included in this vote and will require additional review.
3. R2- Conventional Residential Zoning is more consistent with an urban setting than a gravel pit.

Commissioner Huppertz stated that the applicant will need to come back for a Conditional Use Permit and these issues would be addressed then. This is just for the zoning.

The amendment failed for lack of a second.

VOTE: All Commissioners present voted aye. Motion carried.

9. DISCUSSION ON MINOR SUBDIVISION

Ms. Pettee stated that after the conversation on Minor Subdivision at the last meeting, she requested to seek interpretation of the ordinance from Council. She presented Council with a small handout consisting of the Minor Subdivision definition and the Contents of the Plat section. She reported that after a brief discussion with the Councilors, it was determined that if all four items of the requirements for Minor Subdivision were not met, the subdivision would be processed as a Major Subdivision. Also, changes to the plat were necessary at the platting stage, rather than the development stage. It was also suggested at Council meeting that this "subject" could go back to Commission for possible amendments that would make it more "user friendly". Ms. Pettee quickly reviewed the handouts she provided for the Commissioners and asked them to review the documents to discuss at a later meeting.

Mayor Bassett asked if he could address this issue. He spoke about a check list and a possible alternative to Minor Subdivisions, being Summary Process. He also mentioned the information in the handouts from Corrales and Los Ranchos, stating they are "about as easy as subdivisions get".

10. FINDINGS OF FACT AND CONCLUSION OF LAW & RECOMMENDED ORDER

A. Zone change from SU-Special Use to RE-Residential Estate for property located at: 17 Hill Ranch Road.

Commissioner Sullivan stated the owner requested a more restrictive zoning and the facts should be stated based on evidence heard. For example, in Part 3-Findings of Fact, it should be stated the zoning the applicant requested is more restrictive than the Special Use and the church doesn't need the property anymore.

MOTION: Commissioner Sullivan made a motion to approve the Findings of Fact and Conclusions of Law for a zone change from SU-Special Use to RE- Residential Estate for property located at 17 Hill Ranch Road, Lands of Howard and Dona Hill Trust, Section 4, T10N, R7E, N.M.P.M Santa Fe County, Edgewood NM based on the statement the Facts and Conclusions relied on, that Special Use zoning to Residential Estate is appropriate with the surrounding properties and that the property is not needed by the church.
Commissioner Huppertz seconded the motion.

VOTE: All Commissioners present voted aye. Motion carried.

B. Minor Subdivision, Lone Pine Ranch, Hwy 344 & Prairie Moon Road

Commissioner Sullivan suggested a modification that clearly states this was a conditional approval and the need to explore what would happen if the applicant did not complete the changes within the 60 day time period. He stated that he would like to add a condition that the applicant would make the appropriate changes and presentation to Commission within 30 days; that the plat conform to the requirements of the ordinance and the 20' easement be added.

Commissioner Huppertz stated that the applicant is not present and they can't re-do this now. Commissioner Sullivan asked how this could be fixed.

Ms. Pettee replied that she could add to Section 4.1 the wording "the length of the property" Juan Torres stated that is acceptable if it is supported by the audio of the meeting.

The Commissioners agreed it was.

Commissioner Sullivan expressed concern also regarding the wording in Sections 3.3. He suggested adding “providing the condition of Section 4.1 below are met” and adding the same to 4.3.

MOTION: Commissioner Sullivan made a motion to approve the Findings of Fact and Conclusions of Law for a Minor Subdivision located at: Lone Pine Ranch, located at 94 NM State Hwy 344, Parcel A, Section 22, T10N, R7E, N.M.P.M, Town of Edgewood, Santa Fe County, New Mexico with the following changes: adding the verbiage “provided conditions are met” to Section 3.3 and 4.3 and “the entire length of the western boundary” to Section 4.1. Commissioner Huppertz seconded the motion.

VOTE: All Commissioners present voted aye, except Commissioner Bryant, who abstained due to his absence at the previous meeting. Motion carried.

11. RESOLUTION 2016-05 “RESOLUTION FOR PLANNING & ZONING COMMISSION”

Commissioner Huppertz stated she would like more time to look this over. She didn’t feel prepared enough to discuss tonight.

MOTION: Commissioner Huppertz made a motion to table this item until the next meeting. Commissioner Sullivan seconded the motion, stating he also was not prepared tonight, but there are (3) three items he would like to address regarding this.

VOTE: All Commissioners present voted aye. Motion carried.

12. MATTERS FROM THE CHAIR AND COMMISSION MEMBERS

Commissioner Sullivan stated he called Sandy at MRCOG to ask her how long we should keep our records.

Ms. Pettee replied there are hard copies of the Minutes for each meeting filed in the office and the record goes back to when the Town was incorporated. She added the Agendas, packets and audios are on the Town website. Once they are added, they are not removed.

A brief discussion ensued regarding digitizing all Town documents.

Commissioner Sullivan reported that at the last Council meeting, they spoke about amending the Zoning Ordinance to include height restrictions in various zoning categories. He suggested the possibility of increasing the present height limitation of 36 feet to 40 feet.

There were no other matters brought forward.

13. MATTERS FROM STAFF

Ms. Pettee spoke also on the height restrictions. She stated the Zoning Classifications R3-Residential and Services and MU- Mixed Use had no height restrictions and RE-Residential Estate has no District Standards. She added she would like to see the restriction changed to 40’ and will talk to the Fire Inspector to see if that would be a problem. Ms. Pettee stated she would do a “redline” version for the next meeting, in an effort to get this to Council expeditiously.

14. CALENDAR UPDATE AND FUTURE AGENDA ITEMS.

A. Next Commission Meeting - 6/20/16

1. Zone Change R1 – C2

B. Meeting of July 4th – The Commissioners agreed to move the meeting from July 4th to July 5th.

15. ADJOURN.

MOTION: Commissioner Bryant made a motion to adjourn tonight's meeting.
Commissioner Sullivan seconded the motion.

VOTE: All Commissioners present voted aye. Motion carried.

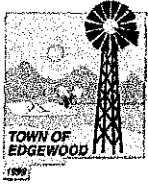
Chairman Dan Thompson adjourned the meeting of June 6, 2016 at 8:25 pm.

PASSED, APPROVED, AND ADOPTED THIS 20TH day of JUNE 2016.

Dan Thompson, Chairman

ATTEST:

Garry Bryant, Secretary



BEFORE THE TOWN OF EDGEWOOD PLANNING & ZONING COMMISSION

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER

IN THE MATTER OF AN APPLICATION BY:

MILLER, LARRY & DOROTHY

CASE: 2016-ZC 002

ZONE CHANGE FROM SU-SPECIAL USE TO R2-CONVENTIONAL RESIDENTIAL
FOR PROPERTY LOCATED AT 506 DINKLE ROAD, LANDS OF DONALD AND MARY HUSTON, PORTIONS
OF SECTIONS 14, 23 & 24, T10N, R7E, N.M.P.M., EDGEWOOD, SANTA FE COUNTY, NM 87015

I. APPLICATION PROCESS

1.1 LEGAL

A request by Larry & Dorothy Miller, for a Zone Change from SU- Special Use to R2- Conventional Residential zoning for property located at:

506 Dinkle Road, Lands of Donald & Mary Huston, portions of Section 14, 23, & 24, T10N, R7E, NMPM, Santa Fe County, Edgewood, NM 87015.

2. PUBLIC MEETING

On June 6, 2016 the Planning & Zoning Commission reviewed this application for recommendation to the Town Council.

Applicant Presenting Information : Mr. Larry Miller, Mrs. Dorothy Miller
Staff Presenting Information : Ms. Bonnie Pettee

3. FINDINGS OF FACT

- 3.1 The Edgewood Planning & Zoning Commission is authorized to hear this case and to make a recommendation to the Edgewood Town Council to approve this Zone Change application for Mr. & Mrs. Larry Miller.
- 3.2 The change in zoning is at the owners request and is a more restrictive zoning category. The R2- Conventional Residential zoning is compatible with the adjacent properties.
- 3.3 The applicant will require a Conditional Use permit to use the property for short term lodging purposes or special events.
- 3.4 Since no additional development will be added to the subject property, the proposed zoning change will not change the character of the neighborhood or adversely affect the rural environment. The property will remain in its present form.

4. CONCLUSIONS OF LAW

The request for a Zone Change from SU-Special Use zoning to R2- Conventional Residential zoning for a 7.5 acre parcel located at 506 Dinkle Road is:

- 4.1 Determined to have met the requirements for a Zone Change Request per the Zoning Ordinance 2014-02, Section 40 Amendments and Section 13. R-2 Conventional Residential Zone and is more restrictive than a Special Use zoning.
- 4.2 Approval of this request is not detrimental to the public health, safety or welfare in the zone in which it is proposed. Approval of this request will not result in adverse impact on neighboring properties.
- 4.3 Should any future development be desired the following Town Ordinances shall be followed:
 - Zoning Ordinance
 - Subdivision Ordinance
 - Grading & Drainage Ordinance
 - Landscaping Ordinance
 - Uniform Fire Code
 - Fire and Rescue Impact Fees

5. ORDER OF DECISION

Based on the Findings of Fact, Conclusions of Law and the reasons stated, the Town of Edgewood Planning and Zoning Commission recommends that Zone Change Application 2016-ZC 002, a request for a change to the zoning designation from SU- Special Use to R2- Conventional Residential for the property identified as 506 Dinkle Road, Lands of Donald & Mary Huston , portion of Section 14, 23 & 24, T10N, R7E, NMPM, Santa Fe County, Edgewood, NM 87015 be forwarded to the Town Council for approval and Zone Map Amendment.

THIS RECOMMENDATION WAS APPROVED BY THE EDGEWOOD PLANNING AND ZONING COMMISSION JUNE 20, 2016.

Dan Thompson, Chairman
Town of Edgewood Planning & Zoning Commission

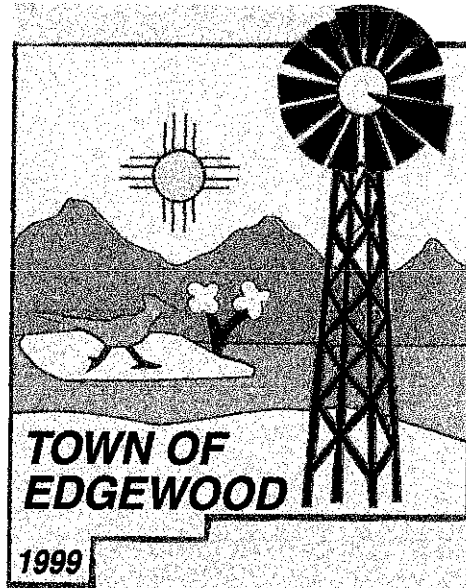
Date

Attest:

Garry Bryant, Secretary
Town of Edgewood Planning & Zoning Commission

Date

TOWN OF EDGEWOOD



Zoning Ordinance 2014 -02

Amended August 5, 2015

District Standards - Summary of Changes

Page 20 – change

Page 21 – change

Page 22 – insert

Page 27 – change

Page 28 - insert

Page 29 - change

Page 31 – change

- (25) feet on each side.
3. All structures located on agriculture parcels shall have front, rear, and side yard Setbacks of at least fifty (50) feet.
 4. Except as otherwise set forth herein, the total impervious coverage, including both Buildings and other impervious surfaces, of a non-agriculture Lot shall not be more than twenty percent (20%); the total Lot coverage of a agricultural parcel shall not be more than ten percent (10%).
 5. The maximum height of a residential Building shall be thirty-six (36) feet. The maximum height of all other Buildings and structures, excluding silos and windmills, shall be established by the relevant building code, provided however, that such Buildings and structures shall be Setback a minimum distance equal to the height of the structure plus ten percent (10%).

G. Agricultural Nuisance Disclaimer.

Lands within the agricultural Zone District are used for commercial agricultural production. Owners, residents, and other users of this property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health or even death arising from normal and accepted agricultural practices and operations, including, but not limited to, noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, and the application of fertilizers, herbicides, and pesticides. Owners, residents, and users of this property should be prepared to accept these conditions and are hereby put on official notice.

SECTION 12. R-1 CONVENTIONAL 1-ACRE RESIDENTIAL ZONE

A. Intent. The purpose of this Zone District is to provide for the development of residential neighborhoods consisting of Singular Dwellings and certain other uses, which are compatible to the residential character of this district. Density shall be limited to one (1) Dwelling Unit per Lot.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. Any of the following Permissive Uses are allowed in this Zone District:

1. One (1) Dwelling Unit per Lot.
2. Accessory Buildings, structures, or uses, subject to the provisions of this Ordinance.
3. Home Occupation, subject to the provisions of this Ordinance.
4. Family daycare home, provided the activity is licensed by the State as a family daycare home.
5. Storage of a Recreational Vehicle provided it is not used as additional living quarters and is not permanently connected to utilities; Recreational Vehicles shall not be stored within the tract Setback of a Lot for a time period exceeding twenty-four (24) hours.
6. Public Utility Structure, provided its location is based on an appropriate Master Plan that has been approved by the Town governing body.
7. Public parks and recreation areas.
8. Secondary Quarters that serve as a single detached extension of the primary Dwelling Unit, and are used exclusively for living and sleeping purposes.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon

the granting of a permit in accordance with this Ordinance:

1. Boarding, Rooming, and Lodging Houses.
2. Church or other religious Building used as a place of worship.
3. Schools, whether public or private, with incidental facilities, provided that the Town governing body has approved a development plan for the site.
4. Manufactured Homes, provided however, that the use of any Manufactured Home as a secondary or Accessory dwelling to the site built primary dwelling shall be limited to a period not to exceed one (1) year unless an extension of time is granted upon renewal of the permit.

D. Prohibited Uses. The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and
4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

E. District Standards. The following regulations apply to all land uses in this Zone District:

1. Minimum Lot size shall be one (1) acre. Any Nonconforming Lot which existed prior to the effective date of this Section, may continue as a Nonconforming Use in accordance with this Ordinance unless the Council finds at any time that the use is an imminent danger to the public health, safety, and welfare.
2. Setbacks shall be maintained as follows:
 - a. Front Setback shall be no less than thirty (30) feet;
 - b. Side Setback shall be no less than ten (10) feet, except in cases of corner Lots, where the secondary street Side Setback shall be no less than twenty (20) feet;
 - c. Rear Setback shall be no less than ten (10) feet.
3. Off-street parking must be provided in accordance with the requirements set forth herein.
4. Maximum Building Height shall be forty (40) feet.
5. All housing shall be on a Permanent Foundation which shall be inspected and approved by the State of New Mexico.

SECTION 13. R-2 CONVENTIONAL 2-ACRE RESIDENTIAL ZONE

A. Intent. The purpose of this Zone District is to provide for the development of residential neighborhoods consisting of Singular Dwellings and certain other uses, which are compatible to the residential character of this district. Density shall be limited to one (1) Dwelling Unit per lot.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. Any of the following Permissive Uses are allowed in this Zone District:

1. One (1) Dwelling Unit per lot.
2. Accessory Buildings, structures, or uses, subject to the provisions of this Ordinance.
3. Home Occupation, subject to the provisions of this Ordinance.
4. Family daycare home, provided the activity is licensed by the State as a family

daycare home.

5. Storage of a Recreational Vehicle provided it is not used as additional living quarters and is not permanently connected to utilities; Recreational Vehicles shall not be stored within the tract Setback of a lot for a time period exceeding twenty-four (24) hours.
6. Public Utility Structure, provided its location is based on an appropriate Master Plan that has been approved by the Town governing body.
7. Public parks and recreation areas.
8. Secondary Quarters that serve as a single detached extension of the primary Dwelling Unit, and are used exclusively for living and sleeping purposes.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance:

1. Boarding, Rooming, and Lodging Houses.
2. Church or other religious Building used as a place of worship.
3. Schools, whether public or private, with incidental facilities, provided that the Town governing body has approved a development plan for the site.
4. Manufactured Homes, provided however, that the use of any Manufactured Home as a secondary or Accessory dwelling to the site built primary dwelling shall be limited to a period not to exceed one (1) year unless an extension of time is granted upon renewal of the permit.

D. Prohibited Uses. The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and
4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

E. District Standards. The following regulations apply to all land uses in this Zone District:

1. Minimum lot size shall be no less than two (2) acres, exclusive of roadway easements. Any Nonconforming Lot which existed prior to the effective date of this Section, may continue as a Nonconforming Use in accordance with this Ordinance unless the Council finds at any time that the use is an imminent danger to the public health, safety, and welfare.
2. Setbacks shall be maintained as follows:
 - a. Front Setback shall be no less than thirty (30) feet;
 - b. Side Setback shall be no less than ten (10) feet, except in cases of corner lots, where the secondary street Side Setback shall be no less than twenty (20) feet;
 - c. Rear Setback shall be no less than ten (10) feet.
3. Off-street parking must be provided in accordance with the requirements set forth herein.
4. Maximum Building Height shall be forty (40) feet.
5. All housing shall be on a Permanent Foundation which shall be inspected and approved by the State of New Mexico.

SECTION 14. R-3 RESIDENTIAL/INSTITUTIONAL ZONE

A. Intent. The purpose of this Zone District is to accommodate higher-density retirement centers or assisted care facilities. Singular Dwellings or detached structures with Multiple

Dwellings are allowed in this district.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District.

Any of the following Permissive Uses are allowed in this Zone District:

1. All uses permissive in the R-1 Zone District;
2. Multiple Dwellings provided they are connected to water and sewer systems and subject to the following restrictions:
 - a. The Floor Area Ratio shall not exceed 0.5 on any Lot; and
 - b. The gross density of lots shall not exceed six (6) dwelling units per acre if connected to on-site septic, and twelve (12) dwelling units per acre if connected to the Town wastewater treatment facility; and
 - c. The dedication of Open Space is at least thirty percent (30%), not including roadways, parking lots, or driveways.
3. Retirement Centers and Assisted Care Institutions.
4. Medical Care Provider Offices.

C. Prohibited Uses: The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and
4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

D. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance:

1. All uses conditional in the R-1 Zone District;

E. District Standards. The following regulations apply to all land uses in this Zone District:

1. Setbacks shall be maintained as follows:
 - a. Front Setback shall be no less than fifteen (15) feet;
 - b. Side Setback shall be no less than ten (10) feet;
 - c. Rear Setback shall be no less than fifteen (15) feet; and
2. Maximum Building Height shall be forty (40) feet.
3. Off-street parking must be provided in accordance with the requirements set forth herein.

SECTION 15. R-4 (MANUFACTURED HOME) RESIDENTIAL ZONE

A. Intent. The purpose of this Zone District is to provide for the development of subdivisions for Manufactured Homes. Density shall be limited to one (1) Dwelling Unit per Lot, with a minimum Lot size of no less than one (1) acre.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District.

Any of the following Permissive Uses are allowed in this Zone District:

1. One (1) Dwelling Unit per Lot;
2. Accessory Buildings, structures, or uses, subject to the provisions of this Ordinance;
3. Home Occupation, subject to the provisions of this Ordinance;

4. Family daycare home, provided the activity is licensed by the State as a family daycare home;
5. Storage of a Recreational Vehicle provided it is not used as additional living quarters and is not permanently connected to utilities; Recreational Vehicles shall not be stored within the tract Setback of a Lot for a time period exceeding twenty-four (24) hours;
6. Public Utility Structure, provided its location is based on an appropriate Master Plan that has been approved by the Town governing body; and
7. Public parks and recreation areas.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance:

1. Boarding, Rooming, and Lodging houses;
2. Secondary Quarters;
3. Church or other religious Building used as a place of worship;
4. Schools, whether public or private, with incidental facilities, provided that a development plan for the site has been approved by the Town governing body.

D. Prohibited Uses: The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and
4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this code.

E. District Standards. All Manufactured Homes shall apply for a development review for installation permitting. The following standards apply to this Zone District:

1. Minimum Lot size shall be no less than one (1) acre, exclusive of roadway easements.
2. Site preparation and foundations. All foundation pad sites shall be cleared of vegetation, on undisturbed soil or approved fill and be graded such that supporting piers are plumb.
3. No Manufactured Home shall be installed or placed unless such Manufactured Home bears a label or has equivalent documentation certifying that the Manufactured Home was constructed in accordance with the Federal Manufactured Home Construction and Safety Standards Act of 1974, or NFPA 501, ANSI 119.1, or equivalent.
4. The Manufactured Home shall have operable, approved smoke detectors installed as required by all applicable laws, codes, or ordinances.
5. The Manufactured Home shall be equipped with two (2) operational exit doors.
6. All utility service connections shall be installed and maintained in accordance with applicable state codes and shall be securely attached and supported as necessary. Water lines and connections shall be protected from freezing in an approved manner.
7. Setbacks shall be maintained as follows:
 - a. Front Setback shall be no less than thirty (30) feet;
 - b. Side Setback shall be no less than ten (10) feet, except in cases of corner Lots, where the secondary street Side Setback shall be no less than twenty (20) feet;
 - c. Rear Setback shall be no less than ten (10) feet; and

- d. The total of all accessory buildings located on the Lot shall not exceed the Floor Area of the Building which is the principal use on the premises.

SECTION 16. R-5 RESIDENTIAL MIXED USE ZONE

- A. Intent.** The purpose of this Zone District is to provide for a residential neighborhood consisting of Singular Dwellings that are site-built and Manufactured Homes, which are compatible to the residential character of this district. Density shall be limited to one (1) Dwelling Unit per Lot, with a minimum Lot size of no less than one (1) acre.
- B. Permissive Uses.** No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. The following Permissive Uses are allowed in this Zone District:
1. Singular Dwellings that are site-built limited to one (1) Dwelling Unit per Lot;
 2. Manufactured Homes limited to one (1) Dwelling Unit per Lot.
- C. Conditional Uses and District Standards.** Conditional Uses and District Standards for R-1 and R-4 zones are in effect for the R-5 zone.
- D. Prohibited Uses.** The following uses are prohibited in this zone:
1. The open storage of inoperative Motor Vehicles or auto parts;
 2. The open storage of trash or junk;
 3. The open storage of appliances; and
 4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

SECTION 17. R-E RESIDENTIAL ESTATE ZONE

A. Intent. This zone is intended to provide for the establishment of residential areas which are to be developed at low Density, and safeguards and controls for the keeping and maintenance of horses in those areas of the Town where noncommercial equestrian activities may be an integral part of the neighborhood amenities.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. The following Permissive Uses are allowed in this Zone District:

1. **Primary Uses.** Single family dwellings.
2. **Accessory Uses.** The following Buildings structures and uses are permitted when clearly incidental and accessory to the primary permitted use.
 - i. Accessory structures, habitable, including Secondary Quarters, and Accessory living quarters.
 - ii. Accessory structures, non-habitable, including private garages or carports, garden greenhouses, recreation rooms, pool bathhouses, or private stables and swimming pools.
 - iii. Minimum Lot size shall be no less than five (5) acres.
 - iv. No stable, shelter or corral shall be located less than thirty-five (35) feet from any dwelling or other Building used for human habitation.

C. Prohibited Uses: The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and
4. Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

SECTION 18. R-R RURAL RESIDENTIAL ZONE

A. Purpose. The purpose of the Rural Residential Zone District is to provide for a design element which includes measures to protect the character of the area by assuring compatibility of development with the surrounding area, protecting surface water and ground water resources; to encourage a harmonious mixture of uses to facilitate the economic provision of streets, utilities, water and sewage disposal; and to preserve the natural environmental and scenic features of the site.

A zone change for the establishment of a Rural Residential Zone may not be approved unless the proposal:

1. Maximizes visibility of Open Space tracts from adjoining collector roads, arterial roads, or state and federal highways through the placement of Lots in the interior of the site and through vegetative buffers; and
2. Placing Buildings and Lots in a manner which does not intrude on the visual character of the landscape, in particular, avoiding placement of houses or Buildings on forested ridgelines or other prominent physical features; and
3. Submittal of a site plan to ensure that siting of Lots and built areas will not interfere with the character of the site.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. The uses permitted by right are described in the R-1 and R-E Zone Districts; all uses shall be in full compliance with all other governing regulations and standards for the Town of Edgewood.

C. Pre-Application. Any request for a zone change to establish a Rural Residential Zone shall be initiated through a pre-application conference between the Developer and the Community Planning & Development Department. Ten (10) copies of a preliminary plat shall be submitted to allow the Commission to render a nonbinding opinion.

D. Requirements. Any application for a zone change to establish a Rural Residential Zone must include the required submission fee and the following information:

1. A development zone plan consisting of the following components:
 - a. Vicinity map showing the relationship of the site to its general surroundings and topography, floodplains, and other natural features in the area.
 - b. A description of existing conditions on and adjacent to the site, including boundary and property lines, roads and easements, public and private utilities, Buildings and structures, and current land use.
 - c. A description of the proposed, full build-out development within the Rural Residential Zone, including the type, distribution, and Density of proposed land uses, the major vehicular and pedestrian circulation system, including a traffic impact study on all local roads and intersections within one mile of the proposed site boundaries, a schematic utilities plan, and proposed sites for Common Areas, community facilities, and Conservation

Easements.

2. Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use in the manner requested, or is the duly appointed agent of such a Person.
3. Preservation of mature trees, vegetative cover, watercourses and other natural site features shall be viewed positively and abrupt changes in natural slope shall be avoided. Preservation shall be directed toward:
 - a. Enhancing the quality of new development;
 - b. Protecting the natural environment;
 - c. Providing buffering between new development and surrounding properties; and
 - d. Agreements and covenants that govern the use, maintenance, and continued protection of the development and its common spaces, shared facilities, and private roads.

E. District Standards. The following land use and performance standards apply to this Zone District unless specifically exempted or modified as a condition of approval of the Rural Residential Zone.

1. The total land area for a Rural Residential Zone shall be more than one hundred (100) acres.
2. All development within the Rural Residential Zone must be served by water and wastewater facilities/utilities.
3. The Commission may require that suitable areas for streets, schools, parks and other public areas be set aside.

Mini-Parks: The total area contained in mini-parks that have a minimum dimension of 10,000 square feet and that include benches, playground apparatus, barbecue pits, fire rings or other recreational amenities may be counted as common Open Space.

SECTION 19. R-S RESIDENTIAL AND SERVICES ZONE

A. Intent. The purpose of the RS (Residential and Services) Zone is to provide for orderly and compatible development in transitional areas between residential and non-residential districts and to establish and preserve areas for those commercial facilities which are especially useful in close proximity to residential areas.

B. Permitted uses. The following uses are permitted in the R-S Zone.

1. Any use permitted in the R-1 Zone;
2. Retail; Maximum of 3,000 square feet for most uses; 6,000 square feet for multipurpose convenience stores and medical offices.

C. Conditional Uses: The following uses may be permitted within this Zone District upon grant of a permit:

1. Personal services such as, but not limited to, the following (provided the use is conducted within an enclosed Building and materials and equipment are not offered for sale except incidental to the service):
 - a. Beauty and barber shops;
 - b. Photography;
 - c. Educational facilities, not including child care centers;
 - d. Tailoring;

- e. Small appliance repair;
2. Day nurseries and nursery schools.
3. Institutions of an educational, religious, charitable or philanthropic nature.
4. Offices wherein only professional, administrative, clerical or sales services are conducted.
5. Private clubs lodges or fraternal organizations operated solely for the benefit of bona fide members (including outdoor recreation or assemble facilities).

D. Prohibited Uses:

1. Sexually-Oriented Businesses.

E. District Standards. The following regulations apply to all land uses in this Zone District:

1. There shall be no Lot size less than one (1) acre excluding right-of-ways.
2. Setbacks shall be maintained as follows:
 - a. Front Setback shall be no less than thirty (30) feet;
 - b. Side Setback shall be no less than ten (10) feet, except in cases of corner Lots, where the secondary street Side Setback shall be no less than twenty (20) feet; and
 - c. Rear Setback shall be no less than ten (10) feet.
3. Off-street parking must be provided in accordance with the requirements set forth herein.
4. Maximum Building Height shall be forty (40) feet.

SECTION 20. MU MIXED-USE ZONE

A. Intent. The purpose of this zone is to accommodate higher-density residential development and limited nonresidential uses which are compatible to the residential character of this district. Detached single family residences and Multiple Dwellings are allowed in this district, and may include apartments, townhouses, and condominiums.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District.

Any of the following Permissive Uses are allowed in this Zone District:

1. All uses permissive in the R-1 and R-S Zone Districts; and
2. Multiple Dwellings provided above.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance:

1. All uses conditional in the R-1 Zone District;
2. Non-commercial library, museum, or art gallery;
3. Medical clinics or dental office;
4. Laundromat;
5. Barber or beauty shop;
6. Educational facilities, not including child care centers.

D. Prohibited Uses: The following uses are prohibited in this zone:

1. The open storage of inoperative Motor Vehicles or auto parts;
2. The open storage of trash or junk;
3. The open storage of appliances; and

Any use not designated a permissive or Conditional Use in this zone, unless otherwise authorized by this Ordinance.

E. District Standards. The following regulations apply to all land uses in this Zone District:

1. Multiple Dwellings are subject to the following restrictions:
 - a. The Floor Area Ratio shall not exceed 0.5 on any Lot;
 - b. The average Density of the MU zone shall not exceed twelve (12) Dwelling Units per acre; and
 - c. The dedication of Open Space is at least fifteen percent (15%), not including roadways, parking lots, or driveways.
2. Setbacks shall be maintained as follows:
 - a. Front Setback shall be no less than fifteen (15) feet;
 - b. Side Setback shall be no less than ten (10) feet; and
 - c. Rear Setback shall be no less than ten (10) feet.
3. Maximum Building Height shall be forty (40) feet.
4. Off-street parking must be provided in accordance with the requirements set forth herein.

SECTION 21. C-1 COMMERCIAL ZONE

A. Intent. The purpose of this Zone District is to provide for a commercial area with a wide range of commercial services and employment opportunities in small to large businesses, including offices, business support services, light industrial, retail and mixed residential use.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. Any of the following Permissive Uses are allowed in this Zone District:

1. General and professional offices.
2. Retail commercial establishments.
3. Banking and financial services.
4. Restaurants.
5. Small Engine Repair and Service businesses.
6. Assembly.
7. Light Industry.

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance.

1. All uses permissive in the R-1 and R-3 Zone District;
2. Motor Vehicle sales and services, provided that:
 - a. Any repair work shall be conducted entirely within an enclosed Building;
 - b. Outdoor storage of materials shall be enclosed by a sufficient visual barrier.
3. Kennel, veterinary hospital, animal grooming parlor, or pet sales store; and
4. Small scale processing associated with a commercial business establishment provided that all processing activities are conducted within a Building and shall not produce off site impacts, which would be disruptive to contiguous

properties. Examples of small scale processing include but are not limited to harvesting, transportation, size reduction, preservation, fermentation, assembly, handling, organizing, and storage of products grown or developed on-site.

5. Indoor cinemas designed so that noise generated by the use is not perceptible at the property boundary line. Permissible indoor cinemas shall not include any type of sexually oriented business.
6. Child care centers.

D. District Standards. The Following regulations apply to all land uses in this Zone District:

1. Minimum Lot size, one (1) acre.
2. Setbacks shall be maintained as follows:
 - a. Front Setback shall be no less than twenty (20) feet;
 - b. Rear Setback shall be no less than fifteen (15) feet; and
 - c. Side Setback shall be no less than twenty-five (25) feet.
3. Off-street parking space must be provided in accordance with the requirements set forth herein.
4. Maximum Building Height shall be forty (40) feet.
5. Commercial/retail Buildings shall not exceed 35,000 square feet.
6. Developments must be in compliance with the landscaping ordinance.

SECTION 22. C-2 COMMERCIAL BUSINESS ZONE

A. Intent. The purpose of this Zone District is to provide for the commercial and business needs of the community. This Zone District includes highway related commercial activities, office and entertainment facilities, retail sales, and service providers. Development in this Zone District shall not be detrimental to nearby residential uses.

B. Permissive Uses. No Building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this Zone District. Any of the following Permissive Uses are allowed in this Zone District:

1. All uses permissive in the R-1 and R-3 Zone District;
2. Retail commercial establishments;
3. General and professional offices;
4. Business and personal services;
5. Banking and financial services;
6. Model home centers for Manufactured Homes or site built houses, and having less than four (4) units on-site;
7. Restaurants;
8. Small Engine Repair and Service businesses;
9. Child care centers;
10. Hotels and motels;
11. Bars, Lounges & package sales;
12. Motor Vehicle sales and services, including commercial garages, provided that:
 - a. Any repair work shall be conducted entirely within an enclosed Building;
 - b. Outdoor storage of materials shall be enclosed by a sufficient visual barrier.
13. Veterinary hospital, animal grooming parlor, or pet sales store;
14. Small scale processing associated with a commercial business establishment

provided that all processing activities are conducted within a Building and shall not produce off site impacts, which would be disruptive to contiguous properties. Examples of small scale processing include but are not limited to harvesting, transportation, size reduction, preservation, fermentation, assembly, handling, organizing, and storage of products grown or developed on-site;

15. Assembly;
16. Light Industry; and
17. Sexually-Oriented Businesses (East of V-Hill Rd. and Williams Ranch Rd.).

C. Conditional Uses. The following uses may be allowed in this Zone District only upon the granting of a permit in accordance with this Ordinance:

1. All uses conditional in the R-1 and R-3 Zone District.
2. Kennels.
3. Model home centers for Manufactured Homes or site built homes, and having four (4) or more units on-site.
4. Recreational Vehicle Campgrounds, provided that they fully comply with all State requirements regarding water, liquid waste, electricity, gas, and telephone service and:
 - a. A minimum of two (2) vehicular entrances shall be provided, one (1) entrance of which may be kept closed to the general public if provision is made for emergency access.
 - b. Each Recreational Vehicle space shall have an area of not less than two thousand (2000) square feet and a width of not less than twenty-five (25) feet.
 - c. All Recreational Vehicle spaces shall be connected to an approved sewage disposal facility.
 - d. All utility lines shall be placed underground within a park. Each park space shall be provided with water, electric, telephone and gas lines, if needed. An approved fire protection system shall be installed by the Developer.
 - e. The total area set aside for recreation shall not be less than ten percent (10%) of the area within the recreational park and one (1) or more recreational areas, having not less than three thousand (3,000) square feet in area, shall be set aside within such parks.
 - f. The Recreational Vehicle park shall be screened in an attractive manner from surrounding Lots by a solid fence, wall or suitable planting as per the Landscape Ordinance requirements.
 - g. A minimum of one (1) off-street parking space shall be provided for each Recreational Vehicle. Parking spaces shall be surfaced with dust-free materials. Guest parking shall be provided at a ratio of one (1) parking space for each five (5) Recreational Vehicle spaces.
 - h. No Recreational Vehicle spaces shall be occupied unless and until a minimum of thirty percent (30%) of the total planned [or ten (10) spaces, whichever is greater] shall have been completely prepared and equipped for use in all respects, including drives and community facilities.
 - i. The minimum distance from any portion of a Recreational Vehicle located on the Recreational Vehicle Campground or its Accessory structures from the following lines shall be as follows:

1. Front & rear space line: ten (10) feet from the nearest edge of an interior drive or roadway.
2. From an exterior boundary of the park abutting public streets: twenty (20) feet; from all other exterior park boundaries: ten (10) feet.
3. From another Recreational Vehicle or Accessory structure on an adjoining Recreational Vehicle space: twenty (20) feet.
4. The placement/parking of Mobile Homes and/or Manufactured Homes on Recreational Vehicle spaces is prohibited.
5. Any commercial retail establishments, which require outdoor storage of stock and/or materials. Outdoor storage of stock and/or materials shall provide visual screening.
6. Entertainment Facilities, indoor commercial entertainment establishments including but not limited to cinema, theater, and concert hall.
7. Recreation facilities including bowling alley, indoor/outdoor tennis courts, public recreation Building, health club. Such recreation facilities shall only be allowed if they are located in or attached to structures containing other principal uses. These uses shall be located in a Building that is treated acoustically so that noise generated by the use is not perceptible at the property boundary line. Permissible recreation facilities shall not include any type of sexually oriented business.

D. District Standards. The following regulations apply to all land uses in this Zone District:

1. There shall be no minimum Lot size, provided that land uses are in conformance with the provisions of this Ordinance.
2. Setbacks shall be maintained as follows:
 - a. Front Setback shall be no less than twenty (20) feet;
 - b. Rear Setback shall be no less than fifteen (15) feet; and
 - c. Side Setback shall be no less than twenty-five (25) feet.
3. Off-street parking must be provided in accordance with the requirements set forth herein.
4. Maximum Building Height shall be forty (40) feet.
5. Commercial developments must be in compliance with the Landscape Ordinance adopted by the Town.
6. Temporary Offices: A mobile office unit may be used to house temporary offices, provided that the following conditions are met:
 - a. The proposed office use and location conform to the Town zoning regulations.
 - b. Any such mobile office unit has documentation certifying that it has been manufactured in accordance with nationally recognized standards.
 - c. Any such unit shall be provided with fire protection water supply, fire hydrants and fire department access as specified in the uniform fire code.
 - d. Any such mobile office unit complies with ADA handicapped accessibility.
 - e. Any such unit shall be limited to use as a temporary office for a period of one (1) year from the date of the certificate of inspection, after which time the mobile office shall be removed from the site unless the mobile office is deemed to conform to all city regulations for a permanent structure with all applicable state permits issued.

SECTION 23. IP-INDUSTRIAL PLAN ZONE

A. Purpose. This zone provides suitable sites for a wide range of industrial and

NOTES ON P&Z STATEMENT OF FINDINGS AND CONCLUSIONS

1. A landmark court opinion out of Oregon, now quoted with favor by the Supreme Court of New Mexico, involved a proposal to rezone a 32-acre tract from a single-family residential zone to a zone that allowed construction of mobile home parks. The case is styled *Fasano v. Washington County Commission*, 264 Or. 574, 507 P.2d 23 (Supreme Court of Oregon, 1973).

2. The *Fasano* court quotes the opinion in *Chrobuck v. Snohomish County*, 78 Wash.2d 884, 480 P.2d 489, 495 (1971) as follows: "... the planning commission ... is a public agency, ... a principal and statutory duty of which is to conduct public hearings in specified planning and zoning matters, enter findings of fact – often on the basis of disputed facts – and make recommendations with reasons assigned thereto "

3. *Fasano* court also held:

"... [distinguishing between legislative and quasi-judicial functions] involves the determination of whether action produces a general rule or policy which is applicable to an open class of individuals, interest, or situations, or whether it entails the application of a general rule or policy to specific individuals, interests, or situations. If the former determination is satisfied, there is legislative action; if the latter determination is satisfied, the action is judicial. 33 Ohio St.L.J. at 137. Quoted from "Quasi-Judicial Action" 33 Ohio St.L.J. 130 (1972);

[* * * *]

[*Fasano* at 28] "... once a zoning scheme is adopted, changes in it should be made only when such changes are consistent with the over-all objectives of the plan *and* in keeping with changes in the character of the area or neighborhood to be covered thereby. *Smith v. Washington County*, 241 Or. 380, 384, 406 P.2d 545, 547 (1965) (P&Z approval of zoning change from residential to manufacturing was illegal spot zoning)

[* * * *]

[*Fasano* at 29, quoting *Roseta v County of Washington*, 254 Or. 161, 458 P.2d 405, 40 A.L.R.3d 364 (1969)]: "... the burden of proof should be placed, as is usual in judicial proceedings, upon the one seeking change. The more drastic the change, the greater will be the burden of showing that it is in conformance with the comprehensive plan implementing by the ordinance that there is a public need for the kind of change in question, and the need is best met by the proposal under consideration."

[* * * *]

4. *Fasano* at page 30 finds the following quoted statement *too conclusory and superficial* to justify a change:

"The staff finds that the requested use does conform to the residential designation of the Plan of Development. It further finds that the proposed use reflects the urbanization of the county and the necessity to provide increased densities and different types of housing to meet the needs of urbanization over that allowed by the existing zoning. "

5. In the case of *Albuquerque Commons Partnership v. City of Albuquerque*, 144 N.M. 99, 184 P.3d 411, 422 (N.M. 2008) the Supreme Court of New Mexico makes the following statement:

[* * * *]

{35} Regardless of the justification, the decision-making body should provide "a clear statement of what, specifically, [it] believes, after hearing and considering all the evidence, to be the relevant and important facts upon which its decision is based," and a full explanation of why those facts lead it to the decision it makes. *South of Sunnyside Neighborhood League*, 569 P.2d at 1076. This is critical for facilitating meaningful judicial review of the action, "not for the purpose of substituting judicial judgment for administrative judgment but for the purpose of requiring the [zoning authority] to demonstrate that it has applied the criteria prescribed by ... its own regulations and has not acted arbitrarily or on an ad hoc basis." *Id.*; see *Smith v. Bd. of County Comm'rs of Bernalillo County*, 2005-NMSC-012, ¶¶ 32-33, 137 N.M. 280, 110 P.3d 496 (reversing County's denial of a radio tower permit upon finding that, in denying the permit after having initially granted it, officials went against their original interpretation of the relevant ordinance and acted on an ad hoc basis).

6. The *Albuquerque Commons* opinion also quotes with favor the following opinion in *Green v. Hayward* (Oregon Supreme Court, 1979) where the proposed change was from an agricultural zone to an industrial zone:

"[* * *] The record contains substantial evidence to support the specific findings of Commissioners Omlid and Elliott which are quoted above. The more difficult question is whether the findings and the evidence are sufficient to support the rezoning decisions themselves. As we have noted, the Plan contains a number of goals, objectives, and recommendations, stated in general terms. We are reluctant to hold that one or a few of those general statements may be severed from the Plan as a whole and used in isolation as justification for a rezoning decision. To hold that a zoning amendment is placed beyond judicial review by a finding, [citation omitted] supported by substantial evidence, that the rezoning furthers *Some* policy in the comprehensive plan would place these decisions beyond the reach of meaningful judicial scrutiny. Nearly every individual zoning decision could reasonably be said to conform to or support one or more of the generally-stated goals or objectives in a typical modern comprehensive plan. On the other hand, we are not authorized, and do not wish, to prescribe de novo court review of these decisions on the merits. The proper concern of the courts in these cases is to ascertain whether adequate procedures were followed and proper legal standards were applied. *The difficulty in this case arises because we have not been provided with an adequate statement of the reasons for the decisions of the Board--a statement which would have informed us of the portions of the Plan which the Board considered relevant and the reasons why a zone change which is consistent with some of the Plan's goals but violates others is considered to be in compliance with the Plan.* [Emphasis added -- Sullivan].

[* * *] we find in the Plan a set of 'minimum location standards for industrial parks, research, and development, and other restrictive industrial development in areas not otherwise shown' for industrial development in the '1990 General Plan Diagram' * * *.' These minimum standards are quoted in the margin. [Page 822] There is, however, nothing in the record, the [citation omitted] findings, or the decision to indicate why these standards were not expressly applied. We do not know whether the Board considered them inapplicable to this type of industrial development, considered them advisory only because they are cast in the form of a 'recommendation,' believed all the standards were met, or simply overlooked them.

As we find these 'minimum standards' to be the only specific guidance given by the Plan for the decision to permit industry in areas not designated industrial on the diagram, and as there has been no showing that the standards are not applicable to this case, a showing of conformity to the Plan requires a showing that these standards have been met. The findings and order of the Board are far from clear on this point. We realize that the public hearing on Bohemia's requests took place not long after the publication of

the Fasano decision, and that the Board was justifiably uncertain about the procedures which it was required by that decision to observe. Finding itself in the unfamiliar situation of conducting a hearing on the record, in light of Fasano's rather general procedural admonitions, the Board made considerable and commendable efforts to assure fairness and a proper hearing, aided by the advice of counsel. Because we are convinced that the parties were afforded a fair hearing and that the Board conscientiously addressed itself to the underlying problems of public policy in reaching its decision on Bohemia's requests, we have examined the record to determine whether its decision could reasonably have been based on substantial evidence that the minimum locational standards, specified in the Plan, were met.

We are, however, unwilling to make this a practice. The appropriate place for both an initial interpretation of a comprehensive plan and a determination whether a proposed change complies with the specifics of the plan as properly interpreted is at the local level where the governing body is familiar with the plan and its implementation, and has heard the evidence at first hand. The chances of misunderstanding and of inconsistent land-use decisions are greatly enhanced when the courts are forced, because of inadequacies in the record, to undertake a search for evidence to support findings which were not made and reasons which were not given. Judicial review in these cases should be limited to a consideration of whether a properly documented decision finds support in the record. If necessary in the future, we would be justified in returning cases such as this to the local body for a complete statement of the basis for the decision. [Emphasis added -- Sullivan]

In this type of case, involving what we judicial or quasi-judicial, rather than legislative, authority by the local governing body, the following observations about judicial review of administrative decisions are pertinent:

'The practical reasons for requiring administrative findings are so powerful that the requirement has been imposed with remarkable uniformity by virtually characterized in Fasano as the exercise of a statutory requirement. The reasons have to do with facilitating judicial review, avoiding usurpation of administrative functions, assuring more careful administrative consideration, helping parties plan their cases for rehearings and judicial review, and keeping agencies within their jurisdiction.' 2 Davis, *Administrative Law Treatise* 444, § 16.05.

These 'practical reasons' seem to us equally compelling when we consider the need for a statement of reasons. As the same author has noted, the courts have tended increasingly to require such a statement from administrative agencies, even in the absence of a statutory requirement. 2 Davis, *Administrative Law Treatise* § 16.12 and 1970 Supp. at 579--587. In *Roseta v. County of Washington*, supra [* * *

] we held that the Board's burden of proving that a rezoning [Page 823] was consistent with the comprehensive plan had not been met where the record did not contain adequate findings. As we indicated there, we were concerned not only with findings of fact, but with the Board's reasons for its decision.

Our Court of Appeals, in an opinion by Chief Judge Schwab, has called for reasoned administrative decisions in the following language, with which we agree:

* If there is to be any meaningful judicial scrutiny of the activities of an administrative agency—not for the purpose of substituting judicial judgment for administrative judgment
* but for the purpose of requiring the administrative agency to demonstrate that it has applied the criteria prescribed by statute and by its own regulations and has not acted arbitrarily or on an ad hoc basis—we must require that its order clearly and precisely state what it found to be the facts and fully explain why those facts lead it to the decision it makes.
* Brevity is not always a virtue. The less circumscribed an agency is by the legislative grant of power to it and by its own regulations augmenting that grant, the more detailed and precise its explanation of its actions exercising the powers granted to it must be.' *The Home Plate, Inc. v. OLCC* (Or. 1975).

Judge Bazelon has spoken to the same question in the zoning context:

'The case for requiring a statement of reasons from an administrative agency is a persuasive one. Those reasons may be crucial in order for the court to know what the agency has really determined, hence what to review. Courts ought not to have to speculate as to the basis for an administrative agency's conclusions; nor can a court 'assume without explanation that proper standards are implicit in every act of agency discretion.' * * * Finally, the articulation of reasons by an agency—for itself and for the public—does afford a safeguard against arbitrary and careless action and is apt to result in greater consistency in an agency's decisionmaking.' *Citizens Ass'n of Georgetown, Inc. v. Zoning Com'n. of D.C.*, (1973).

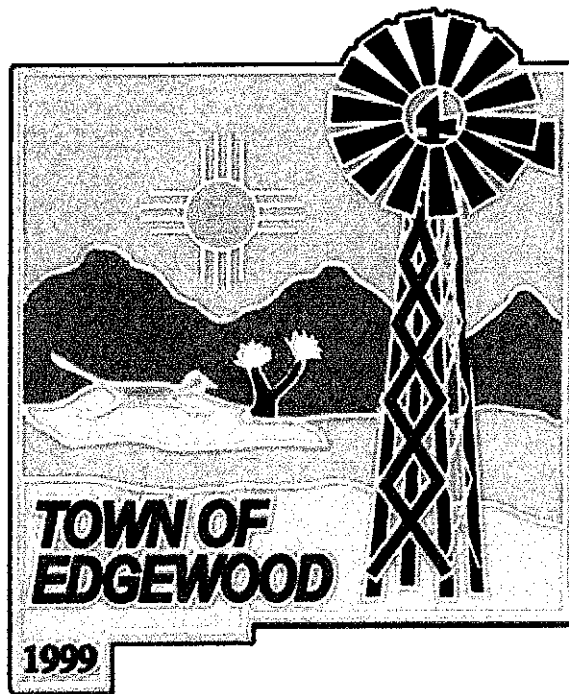
To these observations we would add that judicial review of local government's rezoning decisions without the assistance of a statement of reasons subjects the local government to the risk that the court will interpret its plans, ordinances, or policies in a way in which they were not intended. A complete statement of the basis for a decision like this one would minimize the chances of inadvertent misinterpretation by providing the courts with the benefits of the Board's experience in the interpretation and implementation of its plan.

With some misgivings on these grounds we have, nevertheless, examined the record to determine whether the evidence will support the Board's decision to rezone. *There is evidence in the record before the Board which would support findings that: (1) the proposed facility, by enabling Bohemia to utilize a waste product on the site, would reduce traffic problems rather than generate additional traffic; (2) the 'intent to rezone' procedure, together with permit requirements of other agencies, will insure compatibility of Bohemia's expansion with adjacent areas; (3) no additional utilities and services will have to be provided; and (4) because of its association with an existing industrial facility, the new plant would not disrupt the continuity of a neighborhood or community.* [Emphasis added -- Sullivan] Although much of this evidence was controverted, a determination by the Board that the minimum location standards were met would not be arbitrary.

In Fasano, discussing the burden of proof to be carried by the proponent of a rezoning request, we said:

* * * If other areas have previously been designated for the particular type of development, it must be shown why it [Page 824] is necessary to introduce it into an area not previously contemplated and why the property owners there should bear the burden of the departure. It is contended that there was no showing of necessity for change in this case, as much of the land in Lane County which had been previously zoned for heavy industrial development had not been used for that purpose. It is also argued that Bohemia's desire to build its new plant on land which it already owned (or had an option to purchase) was not a proper consideration. Ordinarily this argument would carry considerable weight. The integrity of comprehensive planning would be seriously compromised if a property owner could obtain a zone change on the ground that he did not own any of the land that was already zoned for the type of development he had in mind, or that his proposed development would be less profitable in an appropriately zoned area. In this case, however, there was evidence before the Board that the new plant was to utilize a process which had been developed by Bohemia, that the plant, to be economically feasible, had to be constructed close to an existing mill, and that it was in the public interest as well as in the interest of Bohemia to permit the construction of such a plant in order to utilize the quantities of old-growth bark which would otherwise constitute a solid-waste disposal problem. The Board could reasonably have concluded that if the plant were not built adjacent to Bohemia's existing mill, no such plant would be built within the county, and that it was in the public interest to have such a plant constructed. We think the record is adequate to support a finding of necessity for the zoning changes. [* * *]'

TOWN OF EDGEWOOD



08/15/2012

Planning & Zoning Commission

ROAD PAVING RECOMMENDATIONS FOR MAYOR AND
TOWN COUNCIL RESULTING FROM THE PASSAGE OF
RESOLUTION 2012-01

Town of Edgewood

PLANNING & ZONING COMMISSION ROAD PAVING RECOMMENDATIONS FOR THE MAYOR AND TOWN COUNCIL

EXECUTIVE SUMMARY

Citizens of the Town of Edgewood have for some time raised concerns regarding health, safety, and quality of life issues relating to road conditions, at the same time expressing the desire that the rural nature of the Town be respected and maintained. With the adoption of resolution 2012-01 on January 4th 2012, the Edgewood Town Council directed the Edgewood Planning and Zoning Commission to conduct an ongoing study of all dedicated roadways and to develop a road paving prioritization plan for the Town of Edgewood.

The Planning and Zoning Commission, in response to Resolution 2012-01 and in consultation with those Town staff responsible for road maintenance, began the review process by developing a set of factors to be considered when choosing roads for paving. Data were collected and a review matrix (Appendix "A") was generated. Based on the review of the data, roads were identified and prioritized for paving as future funding allows.

Methodology

All dedicated roads were reviewed initially. To be considered for an upgrade, a road had to meet two criteria: be dedicated to the Town and serve as a school bus route. Based on a literature review, a review of the 2008 Edgewood Comprehensive Plan, and Commission discussion, a set of criteria or factors by which this set of roads could be evaluated was developed. These factors are listed below.

Descriptive factors

- Is the road a dedicated road and accepted for maintenance by the Town?
- Is the road a school bus route?
- What is the average daily traffic? (ADT)
- What is the maintenance frequency and annual cost?
- Number of houses within a .25 mile distance (as an indicator of citizens affected by fugitive dust and neighborhood density).

Road Condition Factors

- Are there safety issues?
- Are there right of way issues? (i.e., not enough dedicated public right of way necessitating the future purchase of additional right of way.)
- Are there drainage issues? (e.g., known arroyos, history of flooding, etc?)

Additional Factors

- Expressed concerns from neighborhood residents.
- Connectivity to existing paved roads.
- Evacuation routes.

Then, data pertaining to these factors were used to evaluate the road list; this data is presented in Appendix "A". Based on this evaluation, all roads with an ADT of approximately 250, high levels of maintenance costs and housing density and significant neighborhood concerns (see Matrix), were chosen for consideration.

(Note: Condition of road surface was not considered as a factor since all roads were designated as "good" in the 2001 Road Inventory Study by Dennis Engineering.)

Outcome

The Planning and Zoning Commission recommends that the following roads receive a paved surface in the following order:

1. Horton Road from West Hill Ranch Road south to Dinkle Road.
2. West Venus Road from State Road 344 west to Horton Road.
3. Walker Road/Entrada del Norte Road Loop, (The Walker Road Loop is designated as an evacuation route around the 66/344 intersection in the 2008 Comprehensive Plan).
4. Steeplechase Road between West Willard Road and Windmill Road.
5. Rainbow Road from Dinkle Road north to the entrance of Sandia Airpark.
6. Square H Road between Horton Road and State Road 344.
7. East Venus Road from one mile east of State Road 344 east to Moseley Road.

The Planning and Zoning Commission is honored to present this list of roads in the preceding order. Our process assures that this list of roads, when considered by the Town Council for improvement, have been thoroughly vetted in public meetings before the Commission and are qualified for the next round of paving improvements.

The Planning and Zoning Commission wishes to commend Mayors Hill and Stearley and the Town Council for the passage of Resolution 2012-01. In direct response to this resolution, the Edgewood Planning and Zoning Commission have developed a prioritized paving plan based on a transparent process that fulfills the responsibility of our town to enhance the quality of life for the citizens it serves.

Acknowledgement

The Planning and Zoning Commission would like to recognize and commend several people who made invaluable contributions to this report. First we must acknowledge the contributions of our former colleague and Commissioner, Sandra Pemberton. She wrote the first draft of this report and did a great deal of research into the background materials that we used. Secondly we must acknowledge and thank Mr. Norton Henninger from the Road Department for his valuable insights into the day to day workings of road maintenance for the roads in this report. And finally we must acknowledge and thank Ms. Karen Mahalick, who provided this Commission with all of the written materials and statistical information that were used, as well as the historical perspective gained from her years of dealing with the public and the roads they drive on. Without her help, the Commission would not have been able to make the methodical decision that produced the review matrix. Her input in producing this report will be vital for the Town Council to achieve approbation.

Respectfully submitted this 15th day of August, 2012.

John Bassett, Chairman

Edgewood Planning and Zoning Commission

APPENDIX "A"

Horton Road

Horton Road between Frost and Dinkle was determined to be appropriate for paving. If paved this road would provide an alternative to the major north/south route; State Road 344. Horton is noted as an evacuation route and a collector in the Edgewood Comprehensive Plan, 2008.

Horton has an ADT of 240, is a school bus route and also provides access from the north and south to Edgewood Middle School. Approximately 75 houses are within .25 mile of Horton Road on the east and west sides. They receive fugitive dust from Horton Road. This road has been identified as a high maintenance road by the Edgewood road department. The Planning and Zoning Commission recognizes that right of way and drainage issues exist and that this project will require a period of years to complete.

Venus West

Venus West is has a seasonal ADT of 440; it serves as a route for school buses and parents delivering children to the Edgewood Middle School. Currently the eastern ¼ mile of the road is paved. It is recommended that the west section of the road also be paved to Horton Road.

This project would link 344 and Horton, eventually forming a paved route for traffic from the south and north to the middle school. The Edgewood road department has identified this road as a high maintenance road. The housing density on this section is minimal and was not a factor in the decision.

Walker Road/Entrada del Norte

Walker Road west from State Road 344 to Entrada del Norte and Entrada del Norte north to Highway 66 is identified as a connector road in the Edgewood Comprehensive Plan, 2008. While ADT is below the 250 benchmark and housing density fell below the selection criteria the Commission found that paving would provide a link between Edgewood 7 and Highway 66. This project would be invaluable as an alternate route should the intersection of Highway 55 and State Road 344 be closed.

Steeplechase Road

Steeplechase has a medium level maintenance frequency and cost, with a slightly higher ADT (?) This road can serve as an evacuation route to Windmill Road for residents of the southwest quadrant of Town and serve as an important alternative to Edgewood 7. This road does provide good connectivity, but it also has some right-of-way issues to deal with.

Rainbow Road

Rainbow Road going north from Dinkle Road to the entrance of Sandia Airpark meets all of the Commission's factors for consideration (?). It has a low count of adjacent homes, and a lower frequency of maintenance however it is a large generator of fugitive dust for nearby homes. It is also the main link to Edgewood's only airport and associated commercial properties.

Square H Road

Square H Road between Horton Road and State Road 344 is moderately situated in terms of ADT's and numbers of homes adjacent to it, as well as its maintenance frequency and costs. Nevertheless, this road is an important link to both the Square H subdivision and those subdivisions located to the west and north of Square H. It can also serve as an alternative route if West Hill Ranch road were to be blocked off.

Venus East

Venus between State Road 344 and Moseley have an ADT of 246. This road serves Venus Ridge and Steeplechase subdivisions, with approximately 109 homes that are within .25 miles of Venus East and receive fugitive dust. The Hillcrest subdivision is planned along the first mile and will use East Venus for access. The Edgewood road department has identified this road as a high maintenance road. The commission recommends paving Venus East from one mile east of State Road 344 to Moseley.

[illegible]